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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,739	09/30/2003	William T. Ball	P06474US2	3981
34082	7590	05/18/2004	EXAMINER	
ZARLEY LAW FIRM P.L.C. CAPITAL SQUARE 400 LOCUST, SUITE 200 DES MOINES, IA 50309-2350			PRUNNER, KATHLEEN J	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/674,739	BALL, WILLIAM T.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kathleen J. Prunner	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>011204</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. The following informalities in the claims are noted: (A) in claim 1, on line 3, --an-- should be inserted before “overflow”, and the comma after “comprising” should be changed to a colon; (B) in claim 1, on line 8, “part” should read --port--; and (C) in claim 2, on line 8, --assembly-- should be inserted after “cap”. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Fell, Sr. Fell, Sr. discloses a plumbing test system having all the claimed features including a pipe (constituted by cylindrical body 17) having a first exposed end and a second end in communication with a fluid source (note lines 5-10 in col. 1) wherein the first end comprises an internal threaded portion (note Fig. 5), and a cap assembly (constituted by plug 43) threadably mounted in the first end (note Fig. 5) and wherein a portion of the cap assembly 43 is composed of a material capable of sealing the first end when the cap assembly 43 is threaded onto the first end (note lines 29-33 in col. 6).

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oropallo et al. in view of Lewis. Oropallo et al. disclose an overflow system for a bathtub (note Fig. 1) which has a bottom 19, adjacent side walls and end walls 13, a drain port 18 in the bottom 19, and an overflow port 12 in one of the end walls, the overflow system having the claimed features including a drain pipe adapted to be in communication with the drain port 18 and the overflow port 12 (note Fig. 1), the drain pipe having an inverted L-shape (note Fig. 1) including a horizontal leg 11 extending into and through the overflow port 12 of the bathtub (note Figs. 3 and 13) and a vertical leg 16 extending downwardly for connection to a fluid drain system (note Fig. 1), and a solid cap 40 threaded onto threads of the horizontal leg 11 (note Fig. 13) extending through the overflow port 12 to close the end of the horizontal leg 11 (note Fig. 13). Although Oropallo et al. disclose that the horizontal leg 11 of the overflow drain pipe is externally threaded, attention is directed to Lewis who discloses another overflow system for a bathtub in which the horizontal leg of the overflow drain pipe is provided with internal threads which engage external threads on the cylindrical rim body of an overflow port cap (note the last sentence in ¶ 0020) in order to create an effective water-tight seal without the need for installation of a decorative overflow plate (note ¶ 0011). It would have been obvious to one of ordinary skill in the bathtub overflow system art, at the time the invention was made, to provide the horizontal leg of the overflow drain pipe of Oropallo et al. with internal threads which engage external threads on the cap in view of the teaching of Lewis in order to create an effective water-tight seal without the need for installation of a decorative overflow plate. With respect to claim 2, Oropallo et al. also disclose a plumbing test system including a pipe 11 having a first exposed end (note Fig. 13) and a second end in communication with a fluid source (note lines 34-50 in col. 3) wherein the first end comprises a threaded portion and a cap assembly 40 threadably mounted to the first end and wherein a portion of the cap assembly 40 (constituted by

Art Unit: 3751

annular seal 42) is composed of a material capable of sealing the first end when the cap assembly is threaded to the first end (note lines 36-39 in col. 3).

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kathleen J. Prunner whose telephone number is 703-306-9044.

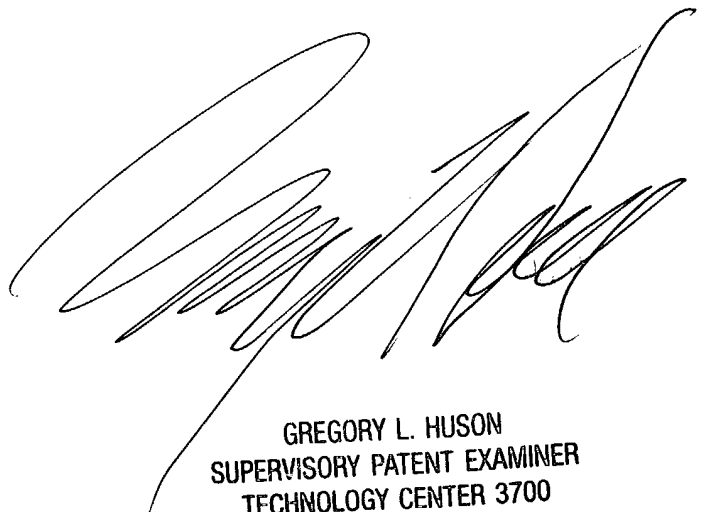
7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen J. Prunner

May 7, 2004



GREGORY L. HUSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700